

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

COUNTY OF BUTLER, et al.,	:	Civil Action No. 2:20-cv-677
Plaintiffs	:	
	:	Hon. William S. Stickman IV
vs.	:	
	:	
THOMAS W. WOLF, et al.,	:	
Defendants	:	

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA	:	
	:	ss.
COUNTY OF FAYETTE	:	

My name is David Lohr. I currently serve as the Chairman of the Fayette County Board of County Commissioners. I was first elected in 2015, taking office in January of 2016. I was reelected in 2019 election for a second term. I am a resident of Fayette County and have lived in the County my entire life. I also own an accounting business located in Fayette County called Woodbury Financial.

I became Chairman of the Fayette County Board of Commissioners in 2020. On March 18, 2020, I was contacted by a representative from Governor Wolf's office who advised me that the Governor planned to issue Orders mandating that non-essential businesses close and mandating that all individuals, whether ill or healthy, were to remain in their homes. I voiced my opposition to these planned Orders, stating that Fayette County did not have a sufficient number of confirmed cases to implement such extreme measures, yet the Orders were issued by the Governor to include Fayette County regardless of my concerns. On March 19, 2020, Governor Wolf issued shutdown orders closing all non-essential businesses and requiring even

healthy individuals to stay at home. This forced Fayette County to allow all of our employees to telecommute in lieu of reporting to the office. While no employees had to be laid off due to the shutdown orders, Fayette County had to expend significant funds to update our technological infrastructure, refurbish laptops, buy new laptops, and to pay our technology information department to execute and carry out all these upgrades. Some employees were not capable of working from home, meaning that the County had to make a difficult decision about whether to lay off workers or to pay workers who were not able to work for the County. The Governor's Orders generally affected the reputation and well-being of our County, especially in light of disparate treatment of businesses and citizens in neighboring West Virginia.

The operations of the County were also severely impacted by the Governor's shutdown orders. The orders mandated that all County buildings close their doors to the public barring a few very limited exceptions. Other than being able to apply for a concealed carry permit in the lobby of the building, residents and citizens of Fayette County were completely denied access to our public County building. This has affected the operation of the County in multiple ways. One notable effect that these Orders had on the County and its residents was that Commissioner meetings had to be transitioned to a virtual platform. After spending additional funds to have our IT department organize a virtual meeting platform, we found that many of our citizens and residents were incapable of viewing or participating in the meetings due to internet limitations or lack of necessary hardware. We have seen a huge decline in participation by our own citizens in our Commissioner Meetings, with our most recent meeting having zero attendees from County residents. Typically, with live meetings we would always have citizen attendees. We were always fully able to comply with Social Distancing regulations in our Courthouse facility.

Fayette County has experienced disparate treatment in regard to Governor Wolf's phased reopening plan. The plan, which places counties into a color-coded designation, arbitrarily placed Fayette County with other counties who had much higher case counts, such as Allegheny County. Fayette County saw a maximum number of confirmed cases at 110 and 4 deaths as of July 1, 2020 yet were consistently placed in the same color-coded designation as Allegheny County which had 2,760 confirmed cases of COVID-19 with 190 deaths. Additionally, surrounding Counties and States in proximity to Fayette County were allowed to reopen much sooner than Fayette County even though their confirmed cases were similar to or higher than Fayette's confirmed cases. For example, West Virginia allowed businesses to begin reopening on May 3, 2020. This was a full week before any Counties in Pennsylvania were even allowed to enter the Yellow designation. This unequal treatment has caused many Fayette County residents to travel across County or State lines to locations where restrictions were not as onerous. One such notable example that I have firsthand knowledge of is that a number of residents of Fayette County interested in purchasing automobiles traveled to West Virginia where car dealerships were allowed to remain open. This has affected our County by encouraging residents to travel outside of the County and Commonwealth to conduct business, greatly affecting Fayette County businesses and citizens. The same is true of other commercial sales and services such as haircuts and dining at restaurants or bars.

These Orders have also heavily impacted the medical infrastructure within the County, an industry whose protection was cited as justification for the shutdown Orders. We have two hospitals in Fayette County. Hiland Hospital, located at 401 East Murphy Avenue, Connellsville, PA 15425, is a smaller than average hospital with a focus on mental health services. However, the Governor's shutdown order mandated that hospitals immediately cease



all non-essential operations, including mental health treatment. As a direct result of these orders, Hiland Hospital saw an incredible decrease in patients, at one point during the pandemic only having a single patient in the entire hospital. This severe limitation on the operations of Hiland has caused them to run a deficit of \$1.3 million for the first quarter of 2020. Despite the untold damage caused by these shutdown orders, Governor Wolf provided little guidance for how long the shutdown was to continue, how to safeguard businesses in the area, or justification for placing a County with such a confirmed case count of 110 cases and 4 deaths in the red designation in the first place. The County has also requested recovery numbers for confirmed coronavirus cases in Fayette County, yet this request was flatly denied with no explanation.

In sum, Fayette County has experienced a deprivation of participation in government by our citizens and a loss of access to vital governmental services and offices by the shutdown Orders. Our citizens have been quarantined, healthy or ill. Fayette County residents have been threatened with arrest for violations of the travel bans initiated by the Governor and Secretary of Health. And our businesses have been severely impacted by disparate treatment of our County compared to neighboring West Virginia. Fayette County should never have been put in the Red designation to begin with. Any decision to do so was arbitrary and capricious and served to violate the constitutional rights of our citizens.

I verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief. I declare, certify, verify, or state under penalty of perjury that the foregoing is true and correct, under 28 U.S.C. Section 1746, relating to unsworn declarations under penalty of perjury.

  
David Lohr